

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KENNETH ALEXANDER COLE,)
)
Plaintiff,)
)
vs.) Case No. CIV-06-1115-F
)
CORRECTIONS CORPORATION)
OF AMERICA, et al.,)
)
Defendants.)

ORDER

Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, brings this action pursuant to 42 U.S.C. § 1983.

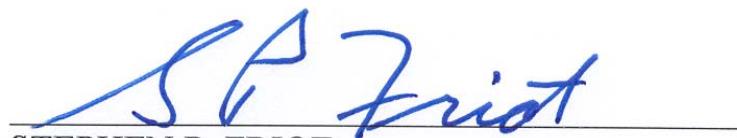
Magistrate Judge Gary M. Purcell's Report and Recommendation of June 27, 2007 is before the court. (Doc. no. 41.) In it, Magistrate Judge Purcell recommends that defendants Jones and Cotner's motion to dismiss (doc. no. 28) be granted and that the cause of action against these defendants be dismissed with prejudice pursuant to Rule 12(b)(6), Fed. R. Civ. P., and 28 U.S.C. §1915(e)(2)(B) for failure to state a claim upon which relief may be granted. The Report further recommends that defendants Ferguson, Kaiser, Peterson, Watkins and Roof's motion to dismiss (doc. no. 38) be granted, and that the cause of action against these defendants be dismissed with prejudice pursuant to Rule 12(b)(6), Fed. R. Civ. P., and 28 U.S.C. §1915(e)(2)(B) for failure to state a claim upon which relief may be granted. Finally, the Report recommends that the cause of action be dismissed *sua sponte* with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) as to defendant Torbati.¹

¹The Corrections Corporation of America is listed in the caption as a defendant; however, that entity was not separately served and is not named in the portion of the complaint which lists the defendants in this action.

Plaintiff has objected to some of the findings and recommendations included in the Report. As required by 28 U.S.C. § 636(b)(1), the court has reviewed all objected to matters *de novo*. Having concluded that review, and after careful consideration of plaintiff's objections, the record, and the relevant authorities, the court finds that it agrees with the Report of the magistrate judge and that no purpose would be served by stating any further analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Gary M. Purcell is **ACCEPTED, ADOPTED, and AFFIRMED** in its entirety. Defendants Jones and Cotner's motion to dismiss (doc. no. 28) is **GRANTED**, and the cause of action against these defendants is dismissed with prejudice pursuant to Rule 12(b)(6) and § 1915(e)(2)(B) for failure to state a claim; defendants Ferguson, Kaiser, Peterson, Watkins and Roof's motion to dismiss (doc. no. 38) is **GRANTED**, and the cause of action against these defendants is dismissed with prejudice pursuant to Rule 12(b)(6) and § 1915(e)(2)(B) for failure to state a claim; and the cause of action against defendant Torbati is dismissed *sua sponte*, with prejudice, pursuant to § 1915(e)(2)(B), because it fails to state a claim on which relief may be granted. Plaintiff is notified, as he was also notified in the Report, that a dismissal of this cause of action may constitute one "strike" pursuant to 28 U.S.C. § 1915(g), upon affirmance or waiver of his opportunity to appeal.

Dated this 2nd day of August, 2007.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE